

UNITED STATES DISTRICT COURT

for the

Western District of Virginia

JUN 25 2008

JOHN F. CORCORAN, CLERK
BY: *[Signature]*

DEPUTY CLERK

United States of America)

v.)

Darnell Bernie Calloway)

Case No: 7:05CR00051-001

USM No: 11953-084

Date of Previous Judgment: May 15, 2007)

Fay F. Spence

(Use Date of Last Amended Judgment if Applicable))

Defendant's Attorney

Order Regarding Motion for Sentence Reduction Pursuant to 18 U.S.C. § 3582(c)(2)

Upon motion of ☒ the defendant ☐ the Director of the Bureau of Prisons ☐ the court under 18 U.S.C. § 3582(c)(2) for a reduction in the term of imprisonment imposed based on a guideline sentencing range that has subsequently been lowered and made retroactive by the United States Sentencing Commission pursuant to 28 U.S.C. § 994(u), and having considered such motion,

IT IS ORDERED that the motion is:

☒ DENIED. ☐ GRANTED and the defendant's previously imposed sentence of imprisonment (as reflected in the last judgment issued) of _____ months is reduced to _____.

I. COURT DETERMINATION OF GUIDELINE RANGE (Prior to Any Departures)

Previous Offense Level: 29

Amended Offense Level: 27

Criminal History Category: III

Criminal History Category: III

Previous Guideline Range: 120 to 135 months

Amended Guideline Range: 120 to 120* months

II. SENTENCE RELATIVE TO AMENDED GUIDELINE RANGE

☐ The reduced sentence is within the amended guideline range.

☐ The previous term of imprisonment imposed was less than the guideline range applicable to the defendant at the time of sentencing as a result of a departure or Rule 35 reduction, and the reduced sentence is comparably less than the amended guideline range.

☒ Other (explain):

*In calculating the reduction granted at sentencing for the defendant's substantial assistance, pursuant to U.S.S.G. § 5B1.1(c), the court used as a starting point the statutory mandatory minimum of 120 months under 21 U.S.C. § 841(b)(1)(A). The defendant's amended guideline range for his drug offense is less than the mandatory minimum. However, under § 5B1.1(b), the statutory mandatory minimum becomes the guideline sentence from which any substantial assistance reduction must be calculated. As the guideline sentence is the same as the starting point for calculating the original reduction, no additional reduction is appropriate.

III. ADDITIONAL COMMENTS

Except as provided above, all provisions of the judgment dated May 15, 2007 shall remain in effect.

IT IS SO ORDERED.

Order Date: June 25, 2008

[Signature]
Judge's signature

Effective Date: _____
(if different from order date)

James C. Turk, Senior United States District Judge
Printed name and title